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5 **IN THE UNITED STATES DISTRICT COURT**  
6 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
7

8 ROBERT HALF INTERNATIONAL,  
9 INC.,

10 Plaintiff,

11 vs.

12 TRACI MURRAY,

13 Defendant.  
14 \_\_\_\_\_/

15 AND RELATED COUNTER CLAIM  
16 \_\_\_\_\_/

CASE NO. CV F 07-0799 LJO SMS

**ORDER REQUESTING SUPPLEMENTAL  
BRIEFING**

17 Trial in this matter is set for August 18, 2008 in Department 4. Pending before this Court is  
18 defendant's motion for summary judgment. Defendant Murray signed a non-solicitation provision which  
19 she now claims is unenforceable because it is not a narrow restriction on trade. "Except as provided in  
20 this chapter, every contract by which anyone is restrained from engaging in a lawful profession, trade,  
21 or business of any kind is to that extent void." Bus. & Prof.C. § 16600. Generally, a covenant not to  
22 solicit the former employer's customers is treated as a covenant not to compete and is invalid under Bus.  
23 & Prof.C. § 16600. It is "allowable only when they protect trade secrets or confidential propriety  
24 information." *Thompson v. Impaxx, Inc.*, 113 CA4th 1425, 1429 (2003). An allowable exception is that  
25 the agreement's restraint on trade is narrow in scope. *General Comm'l Packaging, Inc. v. TPS Package*  
26 *Engineering, Inc.*, 126 F3d 1131, 1134 (9th Cir. 1997). No reported California state court decision has  
27 endorsed this narrow restraint exception, and review has been granted in a case that has rejected it. This  
28 issue is presently before the California Supreme Court in *Edwards v. Arthur Andersen, LLP*, S147190,  
which was argued on June 4, 2008. Neither party addressed the case or the potential impact of the

1 California's Supreme Court's decision on the instant case.

2 Accordingly, the Court requests the parties each provide supplemental briefing on this issue.

3 Briefs shall be filed no later than June 18, 2008 and shall be limited to a maximum of seven pages.

4 IT IS SO ORDERED.

5 **Dated: June 11, 2008**

**/s/ Lawrence J. O'Neill**  
**UNITED STATES DISTRICT JUDGE**